

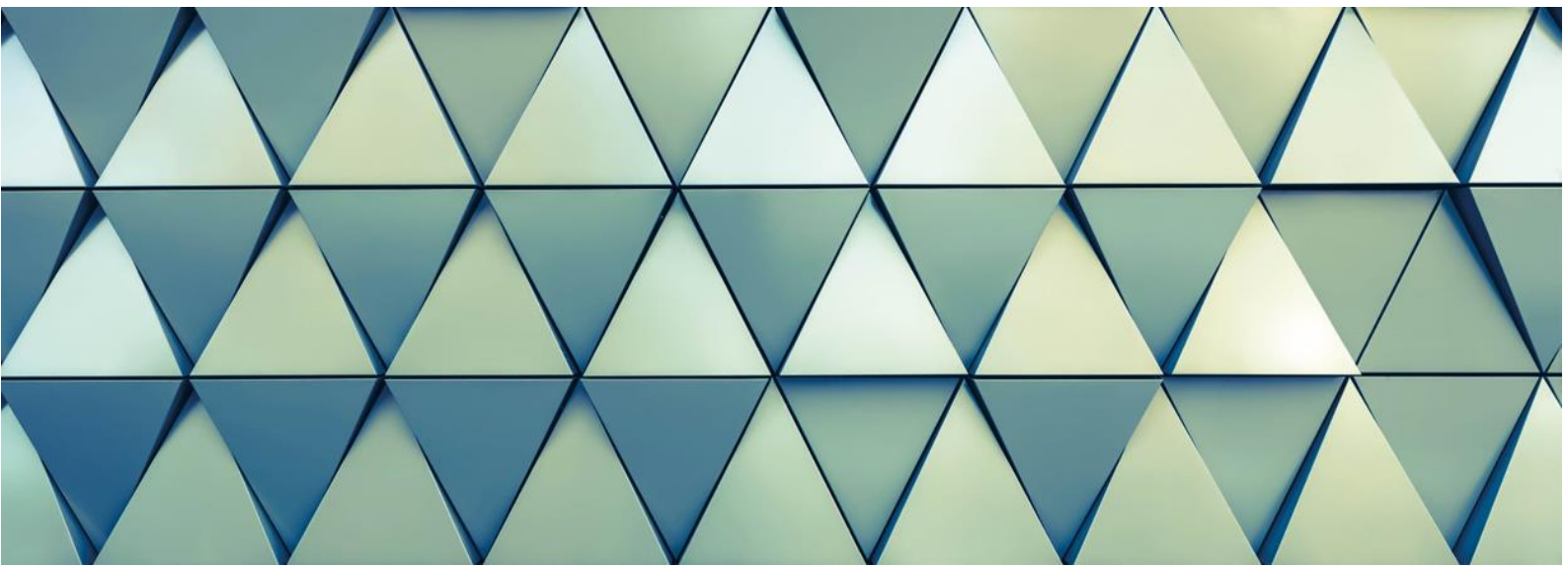
Melton Local Plan

Focussed Changes Consultation

Representations

on behalf of Richborough Estates

August 2017



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Contents

1.0 Introduction 4

2.0 Recent case law relating to Neighbourhood Plans 5

3.0 Focussed Change FC1.2: Policy SS2 Development Strategy and Policy SS3 Sustainable Communities . 7

4.0 Focused Change FC 4.1: Section 5.4 and Policies C1(A and C1(B)) 9

1.0 Introduction

- 1.1 We are pleased to submit this representation on behalf of Richborough Estates in response to the Focussed Changes to the Melton Local Plan consultation. Richborough Estates have an interest in land off Great Lane in Frisby on the Wreake, which is identified as a housing allocation under Policy CA1 (site FRIS1/ MBC/191/15).
- 1.2 Our representations focus on Focussed Changes affecting the following policies:
- Policy SS2 – Development Strategy;
 - Policy SS3 – Sustainable Communities;
 - Policy CA1 – Housing Allocations and Policy
- 1.3 This submission follows on from our representations made on behalf of Richborough Estates on the Emerging Options Draft Plan in April 2016 and the Pre-Submission Draft in December 2016.
- 1.4 Our representations then goes on to confirm the sustainability and deliverability of land off Great Lane (Housing Allocation Ref: FRIS1) and additional land to the east in the context of the need to meet future housing requirements in Frisby on the Wreake and Melton as a whole.

Frisby on the Wreake Neighbourhood Plan

- 1.5 Since the release of the Pre-Submission Draft of the Local Plan, the Frisby Neighbourhood Plan (FNP) has been subject to Regulation 16 Consultation, which closed on 6 July 2017. The FNP is therefore at a relatively advanced stage of production and should be taken into account when preparing the Melton Local Plan. This is a major concern and a factor that seems to have been overlooked by Melton Council when preparing these Focussed Changes and so our representation seeks to address this matter accordingly.

2.0 Recent case law relating to Neighbourhood Plans

- 2.1 Two recent court decisions provide helpful context in relation to the status of Neighbourhood Plans and are of relevance to the situation that currently exists at Frisby on the Wreake.

DLA Delivery Ltd v Lewes District Council [2017] EWCA Civ 58

- 2.2 The Court of Appeal dismissed an appeal submitted by DLA Delivery Ltd on 10 February 2017, which dealt with matters related to the neighbourhood plan preparation process. The Supreme Court then refused permission to appeal on 7 July 2017, which leaves the Court of Appeal decision as the highest authority on the subject. The primary implications of this decision are:

- A Neighbourhood Plan can come into force at any time, so long it is in general conformity with the strategic policies of the development plan in place at that time, which is in line with the advice set out at paragraph 185 of the NPPF and PPG (ID:41-009-20140306)
- There is nothing to prevent a Neighbourhood Plan being adopted in advance of an emerging Local Plan being adopted. This supports the provisions of Section 38(5) of the Planning and Compulsory Purchase Act 2004 and PPG (ID: 41-009-20160211), which states that any conflicts that may arise between policies in the emerging neighbourhood plan and Local Plan must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan.

Bewley Homes Ltd v Waverley Borough Council [2017] EWHC 1776

- 2.3 This more recent judgement handed down on 18 July 2017 by Lang J is also of relevance and is concerned with a challenge by various developers to the Farnham Neighbourhood Plan.
- 2.4 The first ground of challenge related to whether a Neighbourhood Plan could be seen to be in general conformity with the saved policies of the development plan, as required by the NPPF and PPG, if it sought to allocate land outside of the defined settlement boundary. The judgement stated that the question of whether two plans are in general conformity is a matter of planning judgement and the guidance does allow for a degree of flexibility so was not considered to be a sound reason to challenge the decision.

- 2.5 The judge then went on to state that where policies in a local plan could be considered to be redundant (for example the Local Plan period has expired) they could in any event be disregarded for the purposes of considering the requirement of general conformity.

Implication of these decisions for the preparation of the Melton Local Plan and Frisby on the Wreake Neighbourhood Plan

- 2.6 It is clear that these decisions encourage the local planning authority and Neighbourhood Plan groups to work together to ensure that conflicts do not arise through either plan preparation process.
- 2.7 Looking at the timescales for preparation, the Frisby Neighbourhood Plan is at a more advanced stage having already been subject to Regulation 14 (ended 21 March 2017) and Regulation 16 consultation (ended 6 July 2017). An Inspector has now been requested and so the Examination is anticipated to take place in Autumn/Winter 2017 followed by the Referendum and Adoption in early 2018. By contrast, the updated LDS confirms the latest Local Plan timetable, for which adoption is not anticipated to be until June 2018 at the earliest.
- 2.8 The Frisby Neighbourhood Plan was prepared in accordance with the evidence used to support the Local Plan, which at that time indicated a residual requirement of 78 dwellings to be accommodated in Frisby during the plan period. Extensive local public consultation was undertaken by the Neighbourhood Plan group and based upon the feedback received and the associated evidence base that takes into account any known constraints two housing allocations have been identified on Great Lane (FRIS1 and FRIS1A). Together these allocations are capable of delivering the required 78 dwellings and represent the preferred option of the local community.
- 2.9 Given this context, it is imperative that the Local Plan adequately takes into account the findings of the emerging Neighbourhood Plan and makes any necessary amendments to ensure that a conflict does not arise in the future.

3.0 Focussed Change FC1.2: Policy SS2 Development Strategy and Policy SS3 Sustainable Communities

Policy SS2 – Development Strategy

- 3.1 The intention of this strategic policy is to establish the housing requirement for the Borough for the plan period 2011 to 2036 and determine where and approximately how much housing should be distributed amongst the various settlements. Despite this, the revised policy wording makes no reference to circumstances where a Neighbourhood Plan will already be in place in advance of the Local Plan being adopted. The text relating to Neighbourhood Plans simply states that:

“The Council will support the preparation of Neighbourhood Plans and development proposals promoted through Neighbourhood Plans, provided that they are consistent with the strategic objectives and proposals included within this Local Plan.”

- 3.2 Neighbourhood Plans are subject to an independent Examination and one of the tests is whether the Plan has had regard to the requirements of national policy requirements and the locally adopted strategic policies in place at the time. In such instances where a Neighbourhood Plan has been adopted or is at a more advanced stage of production, it is incumbent upon the Local Plan to be consistent with the Neighbourhood Plan.
- 3.3 Richborough **object to the wording of the policy in its current form** and request that changes are made to take into account the concerns outlined above in relation to Neighbourhood Plans.

Policy SS3 – Sustainable Communities (unallocated sites)

- 3.4 This policy is concerned with proposals for new development on unallocated sites within or on the edge of rural settlements outside of the main urban area. A number of criteria are required to be fulfilled before development can be considered to be acceptable, which is an approach supported by Richborough Estates. However, again there is no mention of the approach to be taken where a Neighbourhood Plan is already in place.
- 3.5 Whilst any adopted Neighbourhood Plan policies would of course automatically form part of the decision making process and overall planning balance, it would help to avoid any unnecessary conflict

if the Local Plan is explicit with regards to the relationship between the application of Policy SS3 in circumstances where a Neighbourhood Plan is in place.

- 3.6 Richborough **object to the wording of this policy in its current form** and request that an additional criterion is added to the policy to take into account the above comments in respect of Neighbourhood Plans.

4.0 Focused Change FC 4.1: Section 5.4 and Policies C1(A and C1(B))

Policy C1(A) – Housing Allocations

- 4.1 Individual sites have been allocated under Policy C1(A) within the strategic context established under Policy SS2, which establishes the housing requirements and intended distribution across the Borough. As outlined in our objection to Policy SS2, it is concerning that once again there is no reference to situations where a Neighbourhood Plan is already in place. The reason for this concern is particularly pertinent as it relates to the situation that has arisen in **Frisby on the Wreake**.
- 4.2 As the Local Plan states, the Council will continue to support the production of Neighbourhood Plans and this co-operation has previously been in evidence during the preparation of the Frisby on the Wreake Neighbourhood Plan (FNP). When preparing the FNP, the Neighbourhood Plan Advisory Committee were mindful of the emerging evidence base being used to inform the production of the Local Plan and the requirement for 78 dwellings to be allocated in Frisby on the Wreake. Preparation of the FNP then gathered pace and extensive public consultation was undertaken to inform the options that were being considered. The overwhelming preferred option was to allocate 78 dwellings across a single site (two phases) on land off Great Lane.
- 4.3 The FNP is at a more advanced stage of production than the Local Plan and so as set out in Section 2 of this representation it is imperative and indeed established through case law, that the Local Plan should actively seek to align itself with the FNP given its more advance stage of production.
- 4.4 Richborough therefore **strongly object to this policy and request that draft Housing Allocations FRIS2 'Water Lane' and FRIS3 'Land south of village' are deleted and a minimum of 78 dwellings is allocated against Housing Allocation FRIS1 'Land off Great Lane'** in accordance with Policy H2 of the emerging Frisby Neighbourhood Plan.

[Further justification for the allocation of 78 dwellings at FRIS1 Land off Great Lane, Frisby on the Wreake](#)

- 4.5 In support of the inclusion of the wider site at Great Lane as a Housing Allocation for 78 dwellings under Policy C1(A), the site can be considered deliverable with regard to the following tests in footnote 11 of the Framework:

- 4.6 **Availability** – Richborough Estates have an agreement with the landowners who support the promotion of the whole site for residential development. Since the granting of outline planning permission for the first phase of development, market interest from housebuilders has been sought and Bellway Homes now have a confirmed interest in the whole site and will be progressing an application for the approval of reserved matters at Phase 1 in the near future. As such, there are no legal or ownership constraints to developing the site, there is tangible market interest and so it can be confirmed without any doubt as being available.
- 4.7 **Suitability** – The suitability of FRIS1 (including the Phase 2 land) for housing has been robustly tested and is demonstrated through the granting of outline planning permission for Phase 1. Richborough Estates have also commissioned technical surveys and assessments relating to Phase 2 which also confirm that there are no technical or physical constraints which would prevent the wider site coming forward for residential development.
- 4.8 **Achievability** – An assessment of the technical constraints and necessary mitigation measures that would be required to deliver both FRIS 1 and FRIS 1A have confirmed there is nothing that would physically, environmentally, socially or legally constrain the development of the wider site.
- 4.9 The enclosed Illustrative Masterplan (see Appendix) demonstrates that the combined site is capable of delivering 78 dwellings in a manner appropriate to the overall character of the village.
- 4.10 There are several material advantages to delivering the entire FNP housing requirement for Frisby at Land off Great Lane:
- The deliverability of the wider site has been demonstrated beyond any doubt through the application process so both the Council and the local community can have confidence the site will come forward for development;
 - The allocation of the wider site to meet the whole housing target identified in FNP reduces the risks that both the FNP and Local Plan will fail to deliver the housing requirement for the village. It would therefore ensure that the FNP can be used as a robust basis to defend Frisby against further speculative applications on land outside of the defined settlement boundary that would be contrary to the policies contained within the FNP and LP;

- By allocating additional housing at FRIS1, where development is already set to come forward, this would direct the housing requirement for Frisby to a location that would have the least impact upon existing residents and the character of the existing settlement;
- The allocation of the wider site will allow for greater flexibility in design of the development. It would provide scope for more high quality landscaping and open space to be introduced; and
- Any disturbance caused through the construction process (i.e. through construction traffic or noise pollution) would be concentrated in one area of the village, thereby minimising disruption to village residents.

4.11 It is on this basis and in the context of the need to ensure conformity with the emerging FNP that Housing Allocation FRIS1 should be allocated for 78 dwellings under Policy C1(A) of the Melton Local Plan.

Appendix

Land off Great Lane – Proposed Phases 1 and 2 Illustrative Masterplan



KEY PRINCIPLES

1. PRINCIPAL STREET AND ACCESS VIA GREAT LANE;
2. RESIDENTIAL BUILDING LINE EXTENDING EXISTING STREETSCAPE;
3. SOFT DEVELOPMENT EDGE;
4. FOCAL POINT BUILDINGS AND KEY SPACE;
5. BUNGALOWS;
6. 1.5 STOREY COTTAGES;
7. EXTENDED BUILDING SEPARATION DISTANCES;
8. PROPOSED PUMPING STATION;
9. GREEN EDGE;
10. EXISTING FIELD EDGE;
11. VIEW TO ST. PETERS CHURCH IN KIRBY BELLARS;
12. SHARED SURFACE STREET; AND
13. PROPOSED ELECTRICITY SUB-STATION.
14. EXISTING PONDS RETAINED.
15. POTENTIAL NEW PLAY SPACE.

PHASE ONE
48 TO 54 DWELLINGS.
DEPENDENT ON HOUSING MIX.

PHASE TWO
25 TO 30 DWELLINGS.
DEPENDENT ON HOUSING MIX.

KEY



PHASE 1
SITE LOCATION



PHASE 2 &
LAND WITHIN
APPLICANTS
CONTROL



PROPOSED
RESIDENTIAL
DEVELOPMENT



EXISTING
LANDSCAPE



PUBLIC
OPEN
SPACE



SUSTAINABLE
URBAN
DRAINAGE

PHASES 1 & 2 QUANTUM: UP TO MAXIMUM OF 79 DWELINGS

LAND OFF GREAT LANE, FRISBY ON THE WREAKE - PROPOSED INDICATIVE MASTERPLAN (PHASES 1 & 2)

Pegasus
Design



Melton Local Plan

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London

Birmingham

Manchester

Thames Valley